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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,690	12/15/2005	Asko Rasanen	4208-4232	3524
27123 7590 06/25/2008 MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101				
EXAMINER				
NGUYEN, LEE				
ART UNIT		PAPER NUMBER		
2618				
NOTIFICATION DATE		DELIVERY MODE		
06/25/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/518,690

**Applicant(s)**

RASANEN, ASKO

**Examiner**

LEE NGUYEN

**Art Unit**

2618

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 9-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-14, 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-7, 9-12, 14, 16, 17-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grube et al in view of Karaoguz et al. (US 2002/0059434).

Regarding claim 1, Grube teaches a method of communicating, the method comprising: effecting communication between first and second radio transceivers via a telecommunications network over a first channel (fig. 2, step 200) using a first communication module associated with the first radio transceiver (not shown, col. 1, 61-63, dual mode communication unit); determining the distance between the first and second radio transceivers (fig. 3, step 301); determining whether the distance between the two transceivers meets a predetermined threshold (fig. 3, step 303); and in response to a determination that the threshold is met, changing from communicating between the first and second transceivers via the telecommunication network over the first channel using the first communication module to communicate between the first and second radio transceivers over a second channel in a direct mode using a second

module associated with the first radio transceiver over a second channel (fig. 3, steps 305-309, dual mode communication unit, col. 1, 61-63). Grube fails to teach that the first and second channels are different types. Karaoguz et al teach that in order to obtain more data bandwidth or quality of service, a multi-function mobile phone can switch from a narrow band communication system (WAN) to a wider bandwidth communication system including Bluetooth (para [0009]-[0014]), which is also a direct mode communication, by using hard switch network selector 64 (para [0042]) for switching between network processors and radio interfaces 60, 62, 68, 70 (fig. 3, para [0041], [0043]). Because both Grube and Karaoguz et al teach a device for switching between networks, it would have been obvious to one skilled in the art to substitute one technique for the other to achieve the predictable result of selecting the right network with an appropriately required bandwidth.

Regarding claim 2, Grube et al fail to teach that the second channel has a greater bandwidth than the first channel. Karaoguz et al teach that in order to obtain more data bandwidth or quality of service, a multi-function mobile phone can switch from a narrow band communication system (WAN) to a wider bandwidth communication system including Bluetooth (para [0009]-[0014]), which is also a direct mode communication. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Karaoguz et al with Grube et al in order to obtain more bandwidth for the communication.

Regarding claim 4, Grube et al also teach that the determining steps are carried out at the first radio transceiver (col. 3, lines 53-58).

Regarding claim 5, Grube et al also teach that the distance determination step includes determining the locations of the first and second radio transceivers (col. 3, lines 53-58).

Regarding claim 6, Grube et al also teach that the location determination involves a satellite-based position system (col. 2, line 42).

Regarding claim 7, Grube et al does not explicitly teach that the location determination involves triangulating from plural fixed radio transceivers, preferably forming part of the telecommunications network. It is taken official notice that the art of location determining using triangular transceiver in a cellular communication system is conventionally well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the alternate position determining with triangular method in order to reduce the cost of the extra GPS receiver.

Regarding claim 9, Grube et al also teach that the first and second channels are of different channel types and that the direct mode communication step is effected only if a bandwidth or other service demand exceeds the capability of the first channel (para [0009]-[0014], [0041] of Karaoguz et al).

Regarding claim 10, Grube et al fail to teach that the threshold is dependent on the sum of the radio coverage of the first and second radio transceivers. However, as suggested by Grube et al, the distance threshold bases upon variety of ways (col. 3, lines 9-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the threshold as claimed as a choice of design.

Regarding claim 11, the apparatus claim is interpreted and rejected for the same reason as set forth in the method claim 1.

Regarding claim 12, the apparatus claim is interpreted and rejected for the same reason as set forth in the method claim 2.

Regarding claim 14, the apparatus claim is interpreted and rejected for the same reason as set forth in the method claim 6.

Regarding claim 16, the apparatus claim is interpreted and rejected for the same reason as set forth in the method claim 1.

Regarding claim 17, the apparatus claim is interpreted and rejected for the same reason as set forth in claim 11.

Regarding claim 18, the apparatus claim is interpreted and rejected for the same reason as set forth in claim 2.

Regarding claim 20, the apparatus claim is interpreted and rejected for the same reason as set forth in claim 6.

4. Claims 3, 13, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grube et al in view of Karaoguz et al as applied to claim 1 above and further in view of Schroderus et al. (US 5,822,682).

Regarding claim 3, Grube et al fail to teach prior to the effecting direct mode communication step, estimating the quality of the second channel. Schroderus et al teach prior to the effecting direct mode communication step, estimating the quality of the second channel (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Schroderus et al with Grube et al in order to improve channel efficiency.

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Regarding claim 13, the apparatus claim is interpreted and rejected for the same reason as set forth in the method claim 3.

Regarding claim 19, the apparatus claim is interpreted and rejected for the same reason as set forth in claim 3.

### ***Response to Arguments***

5. Applicant's arguments filed 6/3/08 have been fully considered but they are not persuasive.

In the remarks, Applicant argues that Grube and Karaoguz et al fail to teach or suggest:

"... a channel changer, responsive to a determination that the threshold is met, for changing from communicating with the first communications module via the telecommunications network over the first channel to direct mode communication between the transceiver and the remote transceiver with the second communications module over the second channel" .

In response, Karaoguz teaches the first communication module including the first network processor 60 and radio interface 68, and the second communication module including the second network processor 62 and radio interface 70 (fig. 3, para [0041], [0043]).

Applicant further argues that even if, for the sake of argument, it is taken to be known to provide communications devices with two or more communications modules for communicating on channels of different types, it is clear that such and that which is discussed by the cited references, taken individually or in combination, would, as a whole, still fail, for instance, to disclose, teach, or suggest changing from a first communications module to a second communications module, or

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changing from first means to second means, to change between communicating via a telecommunications network and communicating in direct mode.

In response, the examiner respectfully disagrees. Karaoguz et al teach that a network selector 64 may consist of a hard switch (para [0043]) or a network selector 94 may be used to determine to connect to a detected network (para [0045]). Therefore, Karaoguz et al do teach the changing from a first communication module to a second communication module.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is 571-272-7854. The examiner can normally be reached on 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAY A. MAUNG can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LEE NGUYEN  
Primary Examiner  
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Primary Examiner, Art Unit 2618